

E.D.N.Y. – Bklyn  
13-cr-109  
Gleeson, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 4<sup>th</sup> day of June, two thousand twenty.

Present:

Richard J. Sullivan,  
Michael H. Park,  
William J. Nardini,  
*Circuit Judges.*

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Lawal Olaniyi Babafemi, AKA Abdullah, AKA Ayatollah  
Mustapha,

*Petitioner,*

v.

20-1477

United States of America,

*Respondent.*

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Petitioner moves for leave to file a successive 28 U.S.C. § 2255 motion. Upon due consideration, it is hereby ORDERED that the motion is DENIED as unnecessary. The proposed § 2255 motion would not be successive because Petitioner has not filed a prior § 2255 motion. *See Hom Sui Ching v. United States*, 298 F.3d 174, 177 (2d Cir. 2002) (“[F]or a petition to be second or successive within the meaning of [AEDPA], it must at a minimum be filed subsequent to the conclusion of a proceeding that counts as the first.” (internal quotation marks omitted)).

It is further ORDERED that the case is TRANSFERRED to the district court for “whatever further action the district court finds appropriate.” *Whab v. United States*, 408 F.3d 116, 119 (2d Cir. 2005); 28 U.S.C. § 1631.

A True Copy

Catherine O’Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

 

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

 